

Report of the Joint Committee on State-Tribal Relations to the 2024 Kansas Legislature

CHAIRPERSON: Senator Larry Alley

VICE-CHAIRPERSON: Representative Will Carpenter

RANKING MINORITY MEMBER: Senator Tom Holland

OTHER MEMBERS: Senators Elaine Bowers, David Haley, and Dan Kerschen; and Representatives John Alcalá, Christina Haswood, and Sean Tarwater

CHARGE

Review and Propose Gaming Contracts, Hold Hearings and Discuss Issues Concerning State and Tribal Relations

The Committee is directed by KSA 2022 Supp. 46-2303 to meet and hold hearings on issues concerning state and tribal relations; consider and recommend modification of proposed gaming compacts; and introduce resolutions approving submitted gaming compacts, with or without recommendation.

Joint Committee on State-Tribal Relations

REPORT

Conclusions and Recommendations

The Joint Committee on State-Tribal Relations recommended the approval of the proposed amendment to the Prairie Band Potawatomi Nation-Kansas Gaming Compact and introduced resolutions to that effect. [Note: On April 28, 2023, those resolutions were adopted: SR 1725 was adopted by the Senate, and HR 6026 was adopted by the House of Representatives.]

Proposed Legislation: None.

BACKGROUND

The Joint Committee on State-Tribal Relations (Committee), created in 1993, is required by KSA 2022 Supp. 46-2303 to:

- Recommend modification of proposed gaming compacts and introduce resolutions approving proposed gaming compacts submitted by the Governor and recommend that such resolutions be adopted or be not adopted, or report such resolutions without recommendation, and notify the Governor, in writing, of the Committee's action; and
- Meet, discuss, and hold hearings on issues concerning state and tribal relations.
- KSA 2022 Supp. 46-2303 authorizes the Committee to:
- Establish and transmit to the Governor proposed guidelines reflecting the public policies and state interests, as embodied in the constitution, statutes, and case law of the State of Kansas, consistent with the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*), that the Committee will consider in reviewing proposed compacts;
- Recommend to the Governor that any gaming compact provide for the imposition and collection of state sales

and excise taxes on sales of nongaming goods and services to persons other than tribal members and imposition and collection of state income tax on revenues derived from sales of nongaming goods and services;

- Hold public hearings on proposed gaming compacts submitted to the Committee by the Governor;
- Make recommendations on issues concerning state and tribal relations;
- Introduce legislation as deemed necessary in performing its functions; and
- Meet at any time and place within the state on the call of the chairperson.
- [Note: This committee did not meet during the 2023 interim. A report is submitted to reflect CY2023 activities.]

COMMITTEE ACTIVITIES

April 25, 2023

A representative of the Office of the Governor called the organizational meeting of the Committee to elect the Committee's leadership, pursuant to KSA 2022 Supp. 46-2303. The

Committee elected a chairperson, vice-chairperson, and ranking minority member.

April 27, 2023

The Committee met to consider a proposed amendment to the gaming compact between the Prairie Band Potawatomi Nation (Nation) and the State of Kansas.

Review of Proposed Amendments

The Chief Counsel, Office of the Governor, explained that the Committee and Legislature may not amend or otherwise modify the proposed gaming compact. The Chief Counsel also stated the Nation made a request to the Governor to reopen the gaming compact in 2022 after the enactment of 2022 SB 84, which legalized sports wagering in Kansas. He said the Kansas State Gaming Agency worked with the Nation to review the provisions of the compact, and the Nation agreed to propose an amendment to the compact to allow the Nation to conduct sports wagering.

The Chief of Staff, Office of the Governor, stated the agreement was specific to the Nation, and there would be separate compact agreements for each of the other tribes. The Chief of Staff also discussed federal litigation concerning remote sports wagering outside of a tribe's reservation lands, and he stated the Nation would wait for a ruling in those cases before proceeding with remote sports wagering.

Review of Committee Statutory Responsibilities

A Senior Assistant Revisor of Statutes, Office of Revisor of Statutes, reviewed a memorandum discussing the statutory provisions governing the Committee's review of gaming compacts. The Senior Assistant Revisor stated the Committee could take one of four actions:

- Recommend changes to the proposed gaming compact;
- Approve the proposed gaming compact;

- Reject the proposed gaming compact; or
- Report the proposed gaming compact to the Legislature without recommendation.

The Senior Assistant Revisor noted the statute prohibits the Governor, or the Governor's designee, and the Attorney General, or the Attorney General's designee, from voting on any motion to approve, reject, or report the proposed gaming compact without recommendation.

A representative of the Office of the Attorney General explained the role of the Attorney General during the course of negotiating the compact and the Committee's consideration of the compact. The conferee also discussed federal litigation concerning remote sports wagering.

Final Comments by the Nation

Outside Counsel for the Nation recognized dignitaries present during the Committee's meeting and provided comments on the proposed gaming compact amendment. Counsel stated the Nation would like to have remote sports wagering but was waiting for the disposition of the federal litigation before proceeding. Counsel noted the Nation would be able to engage in brick-and-mortar sports wagering as soon as the proposed gaming compact amendment was approved.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee on State-Tribal Relations recommended the approval of the proposed amendment to the Prairie Band Potawatomi Nation-Kansas Gaming Compact and introduced corresponding resolutions to provide legislative approval of the amendment to the compact.

[*Note:* On April 28, 2023, those resolutions to approve the proposed amendment were adopted: SR 1725 was adopted by the Senate, and HR 6026 was adopted by the House of Representatives.]